

Draft 22 May 1953

The Honorable *Philip* Young
Chairman, Civil Service Commission
Washington 25, D. C.

Dear Mr. Young:

In accordance with the President's letter to the heads of Executive Departments and Agencies, dated 27 April 1953 on the subject of security requirements for Government employment, I am herewith designating three senior employees of the Central Intelligence Agency for service as members of security hearings boards of other departments and agencies of the Government. The employees so designated are: 1) ; 2) ; and 3)

With reference to Section 9 of Executive Order 10450, I wish to quote from the letter which I sent to the Director of the Bureau of the Budget on 16 March 1953 when our comments were requested on the original draft of the proposed Executive Order.

"Reference is made to paragraph 9(a) and (b) regarding the establishment and maintenance by the Civil Service Commission of a security-investigations index covering all persons as to whom security investigations have been made by any Government agency under this Order and directing all agencies to furnish to the Civil Service Commission appropriate information for the establishment and maintenance of the index. Attention in this connection is invited to Section 7 of the Central Intelligence Agency Act of 1949 (P. L. 110 - 81st Congress) which provides that CIA shall be exempted

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from the provision of any law which requires the publication or disclosure of CIA organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency. The furnishing of a complete roster of the names of CIA employees, which in effect would be required by compliance with paragraph 9, would be inconsistent with CIA security requirements and with the Central Intelligence Agency Act of 1949. However, we would desire, whenever consistent with the security of sensitive operations, to continue to furnish to the Civil Service Commission the names of employees who are terminated for security reasons by CIA. The handling of such information would continue under the present special arrangements with the Commission which have been designed to protect sensitive CIA operations."

It is my understanding that our position in this matter has been ~~tactily~~ accepted and if this is agreeable to you we shall continue the special arrangements for protection of CIA security which have heretofore been in existence with the Commission.

In connection with Sections 3(a) and 8(c) of Executive Order 10450, I wish to state that CIA makes its own security investigations, which are in effect a full field investigation of all of its employees, except where special considerations dictate that a full field investigation should be made by the Federal Bureau of Investigation.

In connection with Section 3(b) of Executive Order 10450, I have designated all ^{regular} positions in the Central Intelligence Agency as sensitive positions within the meaning of the Executive Order. I believe that this action is warranted in view of the nature of the work of the Agency and the fact that a defection in any position in the Agency might result in a material adverse effect on the national security.

Draft
22 May 1953

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: Executive Order No. 10450; Security
Requirements for Government Employment.

1. The President, on 27 April 1953, issued Executive Order 10450, Subject: "Security Requirements for Government Employment." Under its provisions, previous Executive Orders establishing a Government Employees Loyalty Program are revoked, and the Loyalty Review Board is abolished. The Executive Order is attached as Tab A.

2. Executive Order 10450 extends to all agencies provisions of the Act of 26 August 1950 authorizing the suspension and termination of employment. The Executive Order does not abrogate the statutory authority of the Director under Section 102(c) of the National Security Act of 1947 to terminate the employment of any CIA employee. The Department of Justice has supplied all agencies with a set of sample security regulations for guidance, and these have been used as a model for the new proposed CIA regulations which are attached as Tab B.

3. Certain provisions of the sample regulations are of concern from a security standpoint. These include the provision that

the members of the security hearing board in a given case are to be drawn from a roster of Federal civilian employees maintained by the Civil Service Commission and the board may not include any members from the agency of the employee whose case is being heard; the right of the employee to counsel; the privilege of cross-examining witnesses; and the right to receive a copy of the transcript of the hearing. We have been informed ^{practically} both by the Bureau of the Budget and the Department of Justice that these provisions need not apply to CIA and in fact neither the Executive Order nor the Act of 26 August 1950 call for an outside panel. In some cases CIA security would not be affected by the presence of an outside panel or a private attorney, nevertheless, in other cases security considerations would mitigate against the use of these proceedings. The proposed CIA regulation provides for a determination to be made that in given cases where sensitive security information would be involved, such cases will not be brought before an outside hearing panel and the agency will rely on the Director's statutory authorities under the National Security Act of 1947.

4. Section 9 of Executive Order 10450 provides for the Civil Service Commission to maintain a security-investigations index

covering all persons as to whom security investigations have been made by any Government agency under this Order and directs all agencies to furnish the Commission with appropriate information for the index. When CIA comments were invited on the original draft of this Executive Order we informed the Director of the Bureau of the Budget that Section 7 of the CIA Act of 1949 would not authorize compliance since it would, in effect, require the furnishing of a complete roster of CIA personnel which was inconsistent with our security requirements and the law. However, we informed them that wherever security considerations permitted CIA would continue to furnish to the Civil Service Commission, under established special procedures, the names of employees whom we have terminated for security reasons.

RECOMMENDATIONS:

1. That the Director approve and sign the attached regulations; and
2. That the Director sign the attached letter to the Civil Service Commission

WALTER REID WOLF
Deputy Director
(Administration)

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21 May 1953


~~REGULATIONS RELATING TO THE SECURITY REQUIREMENTS FOR~~
~~PROGRAM OF THE CENTRAL INTELLIGENCE AGENCY~~ *EMPLOYMENT*
IN *UNDER E.O. 10450*

Pursuant to the authority contained in the Act of August 26, 1950, 64 Stat. 476, Section 102 of the National Security Act of 1947, the Central Intelligence Agency Act of 1949, and Executive Order No. 10450 of 27 April, 1953, I hereby prescribe the following regulations relating to the security ^{*Requirements for employment in*} ~~program~~ of the Central Intelligence Agency; *pursuant to E.O. 10450.*

Section 1. Definitions

(a) As used herein, the term "national security" relates to the protection and preservation of the military, economic, and productive strength of the United States, including the security of the Government in domestic and foreign affairs, against or from espionage, sabotage, and subversion, and any and all other illegal acts designed to weaken or destroy the United States and the national intelligence effort. The term "national security" shall also relate to the protection of intelligence sources, methods and organization from unauthorized disclosure.

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(b) As used herein, the term "sensitive position" shall mean

any position in the Central Intelligence Agency, based on the fact that |

the occupant of ^{such} any positions in the Central Intelligence Agency could bring about, through the nature of any such position, a material adverse effect on the national security. All ^{such} positions in the Central Intelligence Agency are included, not only because the occupant has access to security information, classified material, and other information or material having a direct bearing on the national security, but also because all ^{such} Central Intelligence Agency employees may have opportunity to commit acts directly or indirectly which can adversely affect the national security.

(c) As used herein, the term "suspend" or "suspension" shall include the authority to place an employee on leave ~~or leave~~ ^{with or} without pay.

(d) As used herein, the term --

i. "Deputy Director (Administration)" shall be interpreted to include the Assistant Deputy Director (Administration);

ii. ~~General Counsel~~ shall include ~~appropriate senior~~ members of the Office of General Counsel specifically designated ~~for the purposes of this regulation~~; and

iii. The term "Director of Security" shall include the Deputy Director of Security.

Section 2. Policy

It shall be the policy of the Central Intelligence Agency, based on the said Act of August 26, 1950, and Section 102 of the National Security Act of 1947 and the said Executive Order No. 10450, to employ and to retain in employment only those persons whose employment or retention in employment is found to be clearly consistent with the interests of the national security.

Section 3. Security Standards

(a) No person shall be employed, or retained as an employee, in the Central Intelligence Agency unless the employment of such person is clearly consistent with the interests of the national security.

(b) Information regarding an applicant for employment, or an employee, in the Central Intelligence Agency which may preclude a finding that his employment or retention in employment is clearly consistent with the interests of the national security shall relate, but shall not be limited, to the following:

(1)(i) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

(ii) Any deliberate misrepresentations, falsifications, or omissions of material facts.

(iii) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion.

(iv) An adjudication of insanity, or treatment for serious mental or neurological disorder without satisfactory evidence of cure.

(v) Any facts which furnish reason to believe

that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of the national security.

(2) Commission of any act of sabotage, espionage, treason, or sedition, or attempts thereat or preparation therefor, or conspiring with, or aiding or abetting, another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(3) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with an espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(4) Advocacy of use of force or violence to overthrow the government of the United States, or of the alteration of the form of government of the United States by unconstitutional means.

(5) Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group, or combination of persons which is totalitarian, Fascist, Communist,

or subversive, or which had adopted, or shows, a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or which seeks to alter the form of government of the United States by unconstitutional means.

(6) Intentional, unauthorized disclosure to any person of security information, or of other information disclosure of which is prohibited by law, or willful violation or disregard of security regulations.

(7) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

Section 4. Security Investigations

(a) Security investigations conducted pursuant to these regulations shall be designed to develop information as to whether employment or retention in employment by the Central Intelligence Agency of the person being investigated is clearly consistent with the interests of the national security.

(b) Every appointment made within the Central Intelligence Agency shall be made ^{requirements} ~~subject to investigation~~ as set forth in appropriate regulations of this Agency.

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Section 5. Suspension and Termination



(a) The authority conferred by the act of August 26, 1950, 64 Stat. 476, upon the heads of departments and agencies to which such act is applicable to suspend civilian employees, without pay, when deemed necessary in the interests of the national security, is hereby delegated with respect to employees of the Central Intelligence Agency to the Deputy Director (Administration) *and the AD/P.*

(b) Upon receipt of an investigative report containing derogatory information relating to any of the matters described in subdivisions 2 through 7 of subsection (b) of section 3 of these regulations, the Director of Security of the Central Intelligence Agency shall immediately evaluate the report from the standpoint of the security of the Central Intelligence Agency, and shall forward the report, together with the evaluation, to the Deputy Director (Administration). ILLEGIB

(c) ~~Upon receipt of the investigative report and the evaluation of the Director of Security,~~ *to the* the Deputy Director (Administration) *etc* shall make an immediate positive determination as to the ~~necessity for~~ suspension of the employee in the interests of the national security. If he deems such suspension necessary, the employee shall be suspended immediately. If he does not deem such suspension necessary, a written determination to that effect shall be made a part of the investigation file of the person concerned. Pending final determination in cases in which ameliorating circumstances are present, the employee may, upon recommendation of the Director of Security and approval of the Deputy Director (Administration), be transferred temporarily or be retained

in such employee's current position while his case is being considered under these regulations.

(d) Factors to be taken into consideration in making the determination required by subsection (c) of this section shall include, but shall not be limited to, (1) the seriousness of the derogatory information developed, (2) the degree of access, authorized or unauthorized, of the employee to security information or material, and (3) opportunity, by reason of the nature of the position, for committing acts adversely affecting the national security.

(e) In each case, ^{the employee is suspended} the Director of Security shall notify  the employee as soon as possible of the reasons requiring consideration of his case under these regulations. Such notice shall be in writing, and shall be as specific and detailed as security considerations, including the need for protection of confidential sources of information, permit, ^{which}  shall be supplied by the Director of Security.

(f) An employee shall have the right to submit to the General Counsel, within 30 days after ^{receipt} such notification, statements and affidavits refuting or explaining the stated reasons furnished by the ^{AD/P} Director of Security. Such statements and affidavits shall be considered by the General Counsel for sufficiency, and, after consultation with the Director of Security, a joint recommendation for the disposition of the case shall be made to the Director of Central Intelligence. If the General Counsel and the Director of Security are in disagreement, individual recommendations shall be made by them.

(g) On the basis of the recommendations of the General Counsel and the Director of Security and of his own review of the case,

the Director of Central Intelligence shall make his determination of the case as follows:

(1) If he finds that reinstatement, retention or retransfer is clearly consistent with the interests of the national security, he shall restore the suspended employee to duty in such position, ^{retain} ~~order~~ retention or retransfer as the case may be. Such an employee who has been suspended and reinstated shall be compensated for the period of suspension

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(2) If he does not find that reinstatement or retransfer will be clearly consistent with the interests of the national security, but that employment of the employee in another position in the Central Intelligence Agency is clearly consistent with the interests of the national security, he may restore or transfer the employee to duty in such other position.

(3) If he does not find that reinstatement, retention or transfer of the employee to any position in the Central Intelligence Agency is clearly consistent with the interests of the national security, he shall terminate the employment of the employee.

(4) If the employment of the employee is ^{terminated} terminated, the employee shall be given a written notice of such termination. *by the AD/P*

(h) In addition to the protection granted by subsections (e) through (g) of the section to all employees of the Central Intelligence Agency, any staff employee who is a citizen of the United States and who

has a permanent or indefinite appointment and has completed his probationary or trial period shall be entitled to the following:

(1) A written statement of charges shall be furnished the employee ^{as soon as possible,} and if he is suspended, within 30 days after his suspension. The statement shall be signed by the ^{Assistant} Deputy Director ^(Personnel) (Administration) and shall be as specific and detailed as security considerations, including the need for protection of confidential sources of information, permit, and shall be subject to amendment within 30 days of issuance.

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(2) An opportunity shall be afforded the employee to answer, within 30 days after issuance of the statement of charges or within 30 days after the amendment thereof, such charges and submit affidavits. Statements in refutation of the charges and supporting documents shall be forwarded to the General Counsel, who shall consult with the Director of Security to determine the sufficiency of the answer. The General Counsel and the Director of Security shall make a joint recommendation to the Director of Central Intelligence. If the General Counsel and the Director of Security are in disagreement, individual recommendations shall be made by them.

(3) The employee shall be given a hearing before a hearing board composed of at least three impartial, disinterested persons, selected in accordance with the procedure set forth in section 8 of these regulations. The hearing shall be conducted in strict accordance with the procedure set forth in section 9

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of these regulations. The decision of the hearing board shall be in writing and shall be signed by all members of the board.

Copies
One copy of the decision shall be sent to the Director of Central Intelligence, and one copy shall be sent to the ~~sup-~~
~~erintendent~~ employee.

(4) The entire case shall be reviewed by the Director of Central Intelligence before a decision to terminate the employment of an employee is made final. The review shall be based on a study of all the documents in the case, including the record of the hearing before the hearing board.

(5) The employee shall be furnished a written statement of the decision of the DCI.

(1) Where security considerations permit, copies of all notices of personnel action taken in security cases shall be supplied at once by the *(Personnel)*
(Amended) Director of Security to the Civil Service Commission.

Section 6. Readjudication of Certain Cases

The Director of Security shall review all cases of employees of the Central Intelligence Agency with respect to whom there has been conducted a full field investigation under Executive Order No. 9835 of March 21, 1947. After such further investigation as may be appropriate, such of those cases as have not been adjudicated under a security standard commensurate with that established by Executive Order No. 10450 of 27 April 1953, and these regulations shall be readjudicated in accordance with the said act of August 26, 1950, and these regulations.

Section 7. Reemployment of Employees Whose
Employment Has Been Terminated

No person whose employment has been terminated by any department or agency other than the Central Intelligence Agency under or pursuant to the provisions of the said act of August 26, 1950, or pursuant to the said Executive Order No. 9835 or any other security or loyalty program, shall be employed in the Central Intelligence Agency unless the Director of Central Intelligence finds that such employment is clearly consistent with the interests of the national security and unless the Civil Service Commission determines that such a person is eligible for such employment. The finding of the Director of Central Intelligence and the determination of the Civil Service Commission shall be made a part of the personnel record of the person concerned.

Section 8. Security Hearing Boards

(a) Security hearing boards of the Central Intelligence Agency shall be composed of not less than three civilian officers or employees of the Federal Government, selected by the Director of Central Intelligence from rosters maintained for that purpose by the Civil Service Commission in Washington, D. C. and at regional offices of the Commission. No member of a security hearing board hearing the case of a Central Intelligence Agency employee shall serve on such board without an appropriate security clearance approved by the Director of Central Intelligence or his designee.

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(b) No officer or employee of the Central Intelligence Agency shall serve as a member of a security hearing board hearing the case of an employee of the Central Intelligence Agency.

(c) No person shall serve as a member of a security hearing board hearing the case of an employee with whom he is personally acquainted.

(d) The Director of Security of the Central Intelligence Agency shall nominate a civilian officers or employees to the security hearing board roster maintained in Washington by the Civil Service Commission.

(e) Officers and employees nominated to security hearing board rosters maintained by the Civil Service Commission, both in and outside of Washington, D. C., shall be persons of responsibility, unquestioned integrity, and sound judgment. Each such nominee shall have been the subject of a full field investigation, and his nomination

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shall be determined to be clearly consistent with the interests of the national security.

Amended (Original)
(f) The Director of Security shall whenever appropriate provide stenographic facilities to the security hearing boards of the Central Intelligence Agency when needed to provide an accurate stenographic transcript of the hearing.

GIB (g) The Director of Security shall be responsible for the preparation of the charges against the employee to be presented to the security hearing board. [redacted] The Director of Central Intelligence shall be represented at the hearing by persons designated by the General Counsel and the Director of Security. The representatives of the General Counsel shall aid the board in its determination as to procedures, and shall advise the employee of his rights before the board upon request of the employee. The Director of Security shall advise the board on security matters.

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Section 9. Hearing Procedure

(a) Hearings before security hearing boards shall be conducted in an orderly manner, and in a serious, business-like atmosphere of dignity and decorum, and shall be expedited as much as possible.

(b) Testimony before the hearing boards shall be given under oath or affirmation.

(c) The hearing board shall take whatever action is necessary to insure the employee of a full and fair consideration of his case. The employee shall be informed by the board of his right (1) to participate in the hearings, (2) to be represented by counsel of his choice, (3) to present witnesses and offer other evidence in his own behalf and in refutation of the charges brought against him, and (4) to cross-examine any witness offered in support of the charges.

(d) Hearings shall be opened by the reading of the letter setting forth the charges against the employee, and the statements and affidavits by the employee in answer to such charges.

(e) Both the Central Intelligence Agency and the employee may introduce such evidence as the hearing board may deem proper in the particular case. Rules of evidence shall not be binding on the board, but reasonable restrictions shall be imposed as to the relevancy, competency, and materiality of matters considered, so that the hearings shall not be unduly prolonged. If the employee is, or may be, handicapped by the non-disclosure to him of confidential information or by lack of opportunity to cross-examine confidential informants, the hearing board shall take that fact into consideration. If a person who has made charges against the

employee and who is not a confidential informant is called as a witness but does not appear, his failure to appear shall be considered by the board in evaluating such charges, as well as the fact that there can be no payment for travel of witnesses.

(f) The employee or his counsel shall have the right to control the sequence of witnesses called by him. Reasonable cross-examination of witnesses by the employee or his counsel shall be permitted.

(g) The hearing board shall give due consideration to documentary evidence developed by investigation, including party membership cards, petitions bearing the employee's signature, books, treatises or articles written by the employee, and testimony by the employee before duly constituted authorities. The fact that such evidence has been considered shall be made a part of the transcript of the hearing.

(h) Hearing boards may, in their discretion, invite any person to appear at the hearing and testify. However, a board shall not be bound by the testimony of such witnesses by reason of having called him, and shall have full right to cross-examine him.

(i) Hearing boards shall conduct the hearing proceedings in such manner as to protect from disclosure information affecting the national security or tending to disclose or compromise investigative sources or methods.

(j) Complete verbatim stenographic transcript shall be made of the hearing by qualified reporters, and the transcript shall constitute a permanent part of the record. Upon request, the employee or his counsel shall be furnished, at reasonable cost, a copy of the transcript of the hearing.

(k) The board shall reach its conclusions and base its

determination on the transcript of the hearing, together with such confidential information as it may have in its possession. The board, in making its determination, shall take into consideration the inability of the employee to meet charges of which he has not been advised, because of security reasons, specifically or in detail, or to attack the credibility of witnesses who do not appear. The decision of the board shall be in writing, and shall be signed by all members of the board. One copy of the decision of the board, together with the complete record of the case, including investigative reports, shall be sent to the Director of Central Intelligence. One copy of the decision of the board shall be sent to the employee.

Section 10. Special Security Situations

In those situations where the board hearing would necessarily involve sensitive security information, proceedings will not be conducted under these regulations but will be conducted in accordance with the provisions of CIA Regulation [] The Director of Security will make recommendations concerning the ^{use of} ~~appropriate~~ Regulation ~~to be utilized~~ in ~~each case~~, and the final determination shall rest with the DCI or DDCI.

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